

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 4, 5, and 20 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate status identifier.

After amending the claims as set forth above, claims 1-23 are now pending in this application.

1. Rejection of Claims 21-23 Under 35 U.S.C. § 112 ¶ 2 as Being Indefinite

On page 2 of the Office Action, claims 21-23 were rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite for “failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” The Examiner stated that “[i]t is unclear how to create compression within the top component under service loads as in claim 20 and then creating that compression by prestressing or post-tensioning as in claims 21 and 22.” Office Action at page 2.

Applicants have amended independent claim 20, upon which dependent claims 21-23 depend, to recite a combination including, among other elements, “creating compression within said top component in the direction normal to the main bearing bars whereby said compression is maintained under service loads,” to clarify that the compression of the top component is not dependent upon the service loads, but rather that the compression of the top component is maintained while the top component is under service loads. Applicants point to paragraph [0059] of the Specification for support of this clarification (“[w]ith sufficient prestressing or post-tensioning, all of the concrete in the direction normal to the main bearing bars could be maintained in compression under service loads.”). Claims 21-23 recite additional limitations regarding this “creating compression” step of independent claim 20.

Applicants submit that dependent claims 21-23 are now in compliance with the definiteness requirement of 35 U.S.C. § 112, ¶ 2.

2. Rejection of Claims 1-3 Under 35 U.S.C. § 102(b) as Being Anticipated by Bettigole et al.

On page 2 of the Office Action, claims 1-3 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bettigole et al. (U.S. Patent No. 5,664,378). The Examiner stated that “Bettigole et al. teaches . . . said top component in compression under service loads (by definition of a service load the top component will be in compression when such load is applied) in the direction normal to the bearing bars.” Claim 1 has been amended to recite a combination including, among other elements, “a top component fixed to said grating base member, said top component being in compression in the direction normal to the main bearing bars,” which is not disclosed by Bettigole et al.. Applicants have amended claim 1 to clarify the fact that the top component is in compression independent of being under any service loads. Applicants therefore submit that independent claim 1 is patentable over Bettigole et al. Accordingly, Applicants request that the rejection of independent claim 1, and corresponding dependent claims 2-3, as being anticipated by Bettigole et al. be withdrawn.

3. Allowable Subject Matter

On page 4 of the Office Action, claims 4-17 were objected to as being dependent from a rejected base claim (claim 1). The Examiner indicated that the claims “would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 4 and 5, from which claims 6-17 variously depend, have been rewritten and are now in independent form and include all of the limitations of independent claim 1 and any intervening dependent claims. Applicants submit that Claims 4-17 are now in condition for allowance.

The Examiner further indicated that claims 18-20 are allowed. Applicants have amended allowed claim 20 to clarify the features of the claim limitations that are further defined in dependent claims 21-23. Applicants submit that the amendments do not effect the patentability of the claim and that independent claim 20 remains allowable.

Applicants thank the Examiner for the indication of allowable subject matter. While Applicants agree that the subject matter of claims 18-20 is patentable, Applicants do not necessarily agree with the Examiner's statement of reasons for allowance on page 4 of the Office Action.

4. Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.


The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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